IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8480 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRASHANTKUMAR P BHATT

Versus

COLLECTOR

Appearance:

MR AG VYAS for Petitioner

MR VM PANCHOLI for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/04/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. The petitioner purchased agricultural land admeasuring one acre two Gunthas bearing survey No.779 situate at Vavol, Taluka-Dist.: Gandhinagar under a registered sale deed dated 4.6.81 from late Shankuben, d/o. Girdharlal Bhatt. This sale was considered by respondents to be in violation of Section 63 of the Bombay Tenancy and Agricultural Lands Act, 1947. He prayed for regularization thereof which prayer came to be

rejected by respondent under the order dated 5.11.84. Against this order, the petitioner preferred revision application on 30th September, 1985, before the Gujarat Revenue Tribunal, Ahmedabad. The revision application was rejected under the impugned order only on the ground of being barred by limitation. Hence this special civil application.

#. From the order of the Tribunal, I find that it has not discussed the merits of the matter. It has only considered the application filed by petitioner for condonation of delay in the matter. Where the revision application is barred by limitation, while considering the application filed by litigant for condonation of delay in filing thereof, the court or the authority or the tribunal, as the case may be, has to consider the merits of the matter as in case there are merits in the matter, ordinary rule should have been to condone the delay. In this case this aspect of the matter has not been considered by the tribunal. A good cause of a litigant should not be suffered merely because there is some delay in filing revision. The party will not cause any delay because it does not benefit it. Only on this ground, this special civil application succeeds and the same is allowed and the order of the Tribunal dated 28.7.88 (Annexure-B) is quashed and set aside and the Tribunal is directed to restore the revision application to its original number and consider the application filed by petitioner for condonation of delay in filing thereof in accordance with law and in view of the observations as made in this order. Rule is made absolute accordingly. No order as to costs.

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(sunil)